

**Town of Stoneham, Massachusetts
Zoning Board of Appeals**

Final Comprehensive Permit

Applicant: Weiss Farm Apartments, LLC

2023 APR 28 P 12:43

I. BACKGROUND & PROCEDURAL HISTORY

On or about June 30, 2014, Weiss Farm Apartments LLC (the “Applicant”) submitted an application (the “Application”) for a comprehensive permit, pursuant to G.L. c. 40B, s.20-23, to construct 264 rental dwelling units on an approximately 25.67 acre parcel off of Franklin Street (the “Locus” or “site”) in a Residence District “A” zoning district in the Town of Stoneham. Thereafter, the Applicant revised the Application to consist of 259 dwelling units to include 65 affordable rental dwelling units.

The Original Decision (as defined below) of the Board of Appeals (the “Board”) that followed was based upon the Applicant’s 259 dwelling unit submission and the project plans identified as “Conservation Commission [sic] Notice of Intent Submission [sic], The Commons At Weiss Farm, June 25, 2014” with a final revision date of April 4, 2016, consisting of twelve (12) sheets at varying scales.

The Application was submitted in reliance on a project eligibility letter issued by MassHousing dated June 23, 2014 and is entitled, “The Commons at Weiss Farm”. Pursuant to the regulations governing comprehensive permits, 760 CMR 56.00, the Applicant will enter into a “use restriction” with MassHousing which will perpetually restrict the occupancy of affordable units to income eligible households during the term of affordability (the “Use Restriction”).

The Application contained a “Purchase and Sale Agreement”, dated April 10, 2013, an Assignment of the same and three Amendments, the last Amendment, entitled “Third Amendment of Purchase and Sale Agreement” is dated January 21, 2015. In reviewing the Application and in reaching the original findings and conditions contained in the Original Decision dated April 27, 2016, the Board relied on the representations contained in the Purchase and Sale Agreement and Amendments for evidence of site control and financial information contained therein.

Contemporaneously with its filing with the Board, the Applicant filed also a Notice of Intent with the Stoneham Conservation Commission related to the proposed project. The Commission issued an Order of Conditions on July 22, 2015 denying the proposed project, which Applicant appealed to the Regional DEP Office covering Stoneham which issued a Superseding Order of Conditions dated July 8, 2015. After appeal by the Town, MA DEP issued a Final Order of Conditions dated October 6, 2017 based on a Final Decision dated September 5, 2017. The Stoneham Conservation Commission appealed the Final Order of Conditions to the Superior Court, which entered its judgement affirming the Final Order of Conditions on February 11, 2019. The MA DEP extended the Final Order of Conditions until May 23, 2026. References to the Final Order of Conditions set forth below are to the Final Order of Conditions as so extended and as it may be further extended or modified from time to time.

The public hearing in this matter was opened by the Board on July 24, 2014 and closed, following agreed upon multiple continuances, on April 13, 2016.

The original Decision granting the Applicant a comprehensive permit subject to conditions limiting the number of units to 124 and other conditions was filed with the Stoneham Town Clerk on April 28, 2016 (the “Original Decision”).

On May 16, 2016, the Applicant filed an appeal of the Original Decision with the Housing Appeals Committee (the “Committee”). The Committee issued its final “Committee Decision” on March 15, 2021. The Board appealed the Committee Decision to the Middlesex Superior Court under Gen. L. c. 30A §14 in a matter entitled Town of Stoneham Board of Appeals v. Housing Appeals Committee, et al, Docket No. 2181CV00818. This appeal by the Board was decided on cross-motions for judgment on the pleadings in favor of the Committee and judgment (the “Superior Court Judgment”) entered on August 4, 2022 following the July 14, 2022 decision in the matter of Zoning Board of Appeals of Milton v. HD/MW Randolph Avenue, LLC, et al., SJC Docket No. SJC-13221. Pursuant to the Committee Decision, as affirmed by the Middlesex Superior Court, the Original Decision as modified by the Committee Decision constitutes a comprehensive permit (the “Amended Permit”).

Following the judgment of the Superior Court, the Applicant and Town of Stoneham have continued to meet for the purposes of resolving issues of constructability of the proposed project which remain after the judgment affirming the Committee Decision and a related wetland declaratory judgment and enforcement case pending in the Middlesex Superior Court entitled Weiss Farm, Inc. v. The Town of Stoneham and Stoneham Conservation Commission, Docket No. 1581CV05342.

This Final Comprehensive Permit is intended to resolve the outstanding issues between the Applicant and the Town (including the Board and the Conservation Commission) concerning the proposed project, resolve pending disputes, and avoid future disputes between the Applicant, the Board and the Town of Stoneham, resulting in a Final Comprehensive Permit.

II. THE RECORD AND EVIDENCE ASSEMBLED BEFORE THE BOARD OF APPEALS, COMMITTEE AND SUPERIOR COURT

The Original Decision, the materials identified in Appendix A to the Original Decision, the evidence before the Committee including all pre-filed testimony, 131 exhibits, the transcripts of the testimony, the Committee Decision, the administrative record filed by the Committee in the matter of Stoneham Board of Appeals v. Housing Appeals Committee, Docket No. 2181CV00818, and the decision and judgment of the Middlesex Superior Court dated August 4, 2022 are incorporated herein by reference.

III. GRANT OF PERMIT AND CONDITIONS THERETO

Subject to the conditions set forth hereinafter, this Final Comprehensive Permit is granted to Weiss Farm Apartments LLC (the “Applicant”) for the construction of 259 residential apartment units, including 65 units that are affordable to households with total household income at 80% of area median income, contained in 5 townhouse buildings, and 3 five-story buildings, plus a clubhouse,

with a minimum of 430 surface parking spaces, to be constructed on the Locus identified in the Plans as defined below (the "Project").

The Permit may be transferred only in accordance with 760 CMR 56.05(12).

In agreeing to this Final Comprehensive Permit, the parties have agreed that the conditions contained herein do not render the Project substantially more uneconomic and that these conditions are consistent with local needs.

General Conditions:

1. Except as otherwise specified in this Final Comprehensive Permit, the Project must substantially conform to the plans listed on Appendix "A" to this Final Comprehensive Permit (the "Plans").
2. Substantive revisions to the Project or the Plans, such as relocation (except relocation within the building "envelopes" as proposed) or deletion of dwellings (except as specified in this Final Comprehensive Permit), material changes in unit architecture, style or materials, relocations of more than one property line, relocation of the right of way, or other substantive changes from the approved Plans shall not be permitted without the written approval of the Board in accordance with 760 CMR 56.05(11). Changes will be administered or addressed pursuant to 760 CMR 56.00 et seq. Architectural and design changes to the buildings that do not increase the gross floor area of the buildings or adversely affect the quality of the Project (for example, substituting building materials of similar quality or changing colors) are hereby determined to be insubstantial under 760 CMR 56.05(11).
3. Whenever this Final Comprehensive Permit provides for the submission of plans or other documents to the Board or any other local official or department of the Town, the Board or such official or department shall review the submission only to determine whether it is consistent with this Final Comprehensive Permit, such determination not to be unreasonably withheld, and such review to be made in a reasonably expeditious manner, consistent with the timing for review of comparable submissions for unsubsidized projects. The Applicant agrees that, for the review of Final Plans and issuance of a building permit only, the forty-five (45) day period referred to in Condition 13 is reasonably expeditious.
4. All staff, officials and boards of the Town shall promptly take whatever steps are necessary to permit construction of the Project in conformity with the standard permitting practices applied to unsubsidized housing in the Town.

Compliance With Federal and State Requirements and Law

5. The Project, and all construction, dwelling units, utilities, roads, drainage, earth removal or relocation of structures and all related appurtenances with respect to the Project, shall comply with all applicable state and federal statutes and regulations.

Compliance with Local Requirements

6. Except as expressly approved by this Final Comprehensive Permit or waived herein, the development of this Project, including the construction of all dwelling units, utilities, roads, drainage structures, and other appurtenances, shall comply with all rules, regulations, zoning and other bylaws and policies of the Town of Stoneham in effect at the time of the Application.

“Affordable Units”

7. Subject to the requirements of MassHousing and to the extent not inconsistent therewith, no less than 25% of the dwelling units constructed and rented shall be rented to individuals and/or families earning no more than eighty (80%) percent of the area median income (the “affordable units”) at the rents established by the Use Restriction. The calculation of what constitutes the area median income shall be based on formulas or the methodology published by the Department of Housing and Community Development (DHCD), as revised.

8. Subject to the requirements of MassHousing and to the extent not inconsistent therewith, the affordable units will be evenly distributed within the Project and shall be indistinguishable in architectural style, exterior finish materials, and exterior appearance from market units.

Conditions Precedent to Commencement of Project

9. Prior to commencement of any construction and granting of any building permits for the Project, the Applicant shall submit detailed construction drawings (the “Final Plans”) to the Building Inspector or to the Board’s peer review consultant to ensure that said drawings are consistent with this Final Comprehensive Permit, with local requirements in effect at the time of the Application and not waived in this Final Comprehensive Permit, and with state and federal codes.

10. The Final Plans shall be consistent in detail with the Plans and shall include final and detailed landscaping plans prepared by a registered landscape architect, a construction schedule, snow management/storage locations, NPDES Storm Water Pollution Prevention Plan, the location and design (including materials to be used) of all retaining walls to be used within the Project, and the location of all street lighting fixtures, which may be on poles.

11. The Applicant shall submit the following with the application for the building permit: a Building Code review; a plan showing the location of all construction storage and stockpiling areas (outside of all wetlands buffer areas) together with details of the planned use of such areas; and copies of all approvals from State and Federal agencies required for commencement of construction, except for those that are typically issued immediately prior to construction.

12. Prior to the issuance of a building permit, the interior roadway layout and parking areas shall have been approved by the Fire Chief or his designee in their reasonable judgment.

13. The Board shall take whatever steps are necessary to ensure that the building permit is issued within forty-five (45) days after presentation of the Final Plans, and that any other permits are issued without undue delay.

14. Copies of the approved Final Plans shall be filed in hard copy (3 full-scale sets) and in digital form with the Board for record keeping purposes.

15. Prior to commencement of any work in the public way, the Applicant shall post with the Town Clerk a bond or surety in the amount reasonably estimated by the Building Inspector to be sufficient to complete any work commenced in the right of way plus 10% plus an appropriate rate of inflation over the expected period required to complete such work. The performance bond or surety shall contain language substantially similar to the following or similar language reasonably acceptable to the Board: "If the principal shall fully and reasonably satisfactorily observe and perform its obligations with respect to completion of construction commenced in the public way as set forth in the Final Comprehensive Permit attached hereto, then this obligation shall be void; otherwise it shall remain in full force and effect and, in the absence of completion of the above work, the aforesaid sum shall be paid to the Town of Stoneham in order to complete such work in accordance with the Final Plans, as defined in the Final Comprehensive Permit."

16. The Applicant shall execute an indemnification agreement in the form attached as Appendix "B" to this Final Comprehensive Permit.

17. The Applicant shall provide written documentation to the Fire Chief regarding fire hydrants, whose placement shall be determined by the Fire Chief, who shall exercise reasonable judgment.

Additional Conditions Relating to Stormwater Management

18. Prior to the commencement of building construction, the Applicant shall implement those improvements recommended in the Stormwater Pump Station and Wier Dam Improvements report dated April 8, 2015 and revised June 8, 2015 prepared by H.W. Moore Associates, Inc. (the "Stormwater Management Report") that are located within the Locus, including:

- (a) The stormwater pump system at the Locus will be improved by increasing the height of the walls on the concrete trough and installing a new electrical panel and updated controls in an accessible location. If permitted to do so by applicable laws and regulations, the Applicant will turn on and the existing stormwater pump system within 120 days after taking title to the Locus and will keep the existing stormwater pump system operational thereafter.
- (b) The weir structure will be repaired by resetting the precast concrete section that has settled to the correct elevation, repairing the leakage on the side of the precast concrete section, and replacing the wood weir.
- (c) The Applicant and its successors and assigns shall be responsible for the maintenance and operation of the stormwater pump station and weir structure in accordance with the Operation and Maintenance Plans attached to the Stormwater Management Report.

Additional Conditions Relating to Vehicular and Pedestrian Traffic and Safety

19. The Applicant shall construct a 75-foot long left-turn lane on the Franklin Street south-eastbound approach to the Project site driveway that would maintain one (1) through travel lane in each direction, to be accomplished principally by restriping of Franklin Street.

20. The Applicant shall ensure that signs, landscaping and other features located within the sight triangle areas of the Project site driveway intersection with Franklin Street shall be designed, installed and maintained so as not to exceed 2.5 feet in height. The Applicant shall promptly remove snow windrows located within the sight triangle areas that exceed 2.5 feet in height or that would otherwise inhibit sight lines.

21. The Applicant shall design and implement an optimal traffic signal timing and phasing plan at the following intersections, which shall include an assessment of the yellow and "all-red" clearance intervals at each intersection and a review of pedestrian crossing times and bicycle accommodations:

- Franklin Street/Main Street/Central Street
- Franklin Street/Summer Street
- Franklin Street/Franklin Place

If a traffic signal is installed by the Town and operational at the intersection of Franklin and Stevens Streets prior Town prior to issuance of a certificate of occupancy for the Project, the Applicant will include such traffic signal in the plan.

The above noted improvements shall be completed prior to 60 percent occupancy of the Project and the traffic signal timings shall be re-evaluated and adjusted as may be necessary after 80 percent occupancy of the Project.

22. The Applicant shall design and construct a pedestrian crossing of Franklin Street in a location along the frontage of the Locus mutually agreeable to the Town and the Applicant, which shall include the installation of a rapid flashing beacon to facilitate the safe conveyance of pedestrians across Franklin Street.

Additional Conditions Relating to Site Planning and Civil Engineering

23. The crushed stone path through the pedestrian bridge as shown on the Landscape Plan shall be surfaced in order to provide required handicapped access.

24. Snow storage areas shall not be permitted in wetland buffers zones within the Locus.

25. The walkway and parking area grades shall adhere to all current Architectural Access Board regulations.

26. Due to the extent of wetlands lying along three sides of the Project footprint, sodium chloride shall not be used in the wetland buffer zones for ice and snow treatment.

27. The infiltration system will comply with the Final Order of Conditions.

Conditions Precedent to Building Construction

28. Prior to the commencement of any work at the site and during construction, an erosion control barrier (hay bales staked end to end and siltation fence firmly anchored with six (6) inches of soil on the uphill side, if any) shall be installed and maintained in good condition in accordance with the Final Order of Conditions.

29. Limit-of-work construction fencing shall be installed in accordance with the Final Plan locations.

30. At least forty-eight (48) hours prior to any initial site work, a pre-construction meeting shall be held with the Applicant, Applicant's contractor, a representative of the Board, the Board's consulting engineer, and representatives of the Town departments having an interest in the Project. Said meeting shall be for the purpose of familiarization with the Project, the conditions of this Final Comprehensive Permit, and the Project's construction sequence and timetable.

Conditions Relating to Construction

31. During construction, the name and mobile telephone number of the site manager or clerk of works employed by the Applicant shall be filed with the Building Department, the Board, and the Stoneham Police Department, and such name and mobile telephone number shall be kept current.

32. During construction, the Applicant and its agents and employees shall conform to all local regulations in effect at the time of the Application and all state and federal laws regarding noise, blasting, vibration, dust and use of Town roads and utilities. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area. Construction shall not commence on any day Monday through Friday before 7:00 AM or on Saturday before 9:00 AM. Construction activities shall cease by 6:00 PM on all days. No construction or activity whatsoever shall take place on Sunday or on any major federal or state holidays.

33. Utilities -All electric, cable and telephone utilities shall be underground, and shall conform to the private utility companies' requirements.

34. Proposed underground gas, electric, cable, and telephone service, shall be shown in cross-section on the way; utilities plan and construction details shall be provided on the Final Plans.

35. Normal water service pressure within the Project shall be a minimum thirty-five (35) psi under all conditions except fireflow. Available service pressure under peak water demand and fire flow conditions, including any additional development currently anticipated in the vicinity, shall be demonstrated by use of the Town's hydraulic model.

36. Water system design and construction shall meet the requirements, standards and regulations of the Stoneham Department of Public Works that were in effect at the time of the Application.

37. All stumps, brush, and other debris resulting from any clearing or grading shall be removed from the locus. No stumps or other debris shall be buried on the locus.

Conditions to the Issuance of a Certificate of Occupancy

38. No building shall be occupied until the improvements specified in this Final Comprehensive Permit and set forth on the Final Plans are constructed and installed so as to adequately serve said building or, if reasonably requested by the Board, adequate security has been provided, reasonably acceptable to the Board as to amount and form, to ensure such completion.

39. To ensure compliance with the terms and conditions of this Final Comprehensive Permit, the Applicant shall, no less than thirty (30) days prior to the request for final certificates of occupancy for any of the structures approved in this Final Comprehensive Permit, submit to the Building Inspector and Board's peer review engineer a complete and detailed "As-Built" Plans of the roadway and associated infrastructure, as set forth in the Stoneham Planning Board Subdivision Rules and Regulations as in effect at the time of the Application and approved by the Board's consulting Engineer together with a certification from a Professional Engineer or Architect registered in the Commonwealth of Massachusetts that the Project "As-Built Plan" complies in all substantive respects with this Final Comprehensive Permit. Progress as-built plans may be submitted for the extent of roadway and associated infrastructure serving those dwellings for which certificates of occupancy are sought.

40. Temporary certificates of occupancy shall be approved by the Building Inspector if all conditions typically imposed on comparable submissions for unsubsidized projects have been satisfied and all required fire prevention and detection systems are installed and operating, carbon monoxide detectors are installed and operating, street signs and building numbers are in place and all inspections required by the Fire Department for comparable unsubsidized projects have been completed by the Fire Department.

Administrative

41. The Applicant shall pay in connection with construction of the Project (as set forth herein) \$50,000 toward the cost of a third party reviewer of the building permit plans by a peer review consultant or engineer selected by the Board or Town and any balance left over if any shall be retained by the Town. All other fees shall be limited to those imposed by applicable requirements or regulations in effect at the time the Application was filed.

42. Without limiting the generality of Condition 41, the Applicant shall be permitted to open Franklin Street and no street opening fees shall be charged in connection therewith. The Applicant shall provide a traffic detail at its cost and expense during any related work.

43. Subject to Section VI, the Applicant irrevocably waives any claims for reimbursement of any fees previously paid to the Town in connection with any prior version of the Project.

44. The Applicant shall be responsible to repair in a manner reasonably satisfactory to and expeditiously reviewed by the Director of Public Works any construction related damage to adjacent roads.

45. The following aspects of the Project shall remain private and, unless the Town is otherwise legally obligated to perform such work pursuant to applicable nonwaived local rules and

requirements or other legal requirements, the Town of Stoneham shall not have any legal or financial responsibility for operation or maintenance of:

- (a) Roadways, driveways or parking areas within the Locus
- (b) Stormwater management system and appurtenances within the Locus
- (c) Snow plowing or removal within the Locus
- (d) Landscaping within the Locus
- (e) Trash disposal or pickup
- (f) Street lighting or other illumination within the Locus
- (g) Maintenance requirements of easements, access and appurtenances associated with any of the above.

46. The water system shall be constructed by the Applicant, and granted to the Town of Stoneham upon the Town's acceptance of the installed watermain and appurtenances and all required testing results. Such acceptance shall not serve to constitute acceptance of the infrastructure contained in Condition 44.

47. Time limit to commence construction: The Applicant shall commence construction within three (3) years from the date of this Final Comprehensive Permit except for good cause. This time period shall be tolled for the time required to pursue or await the determination on any appeal on any other state of federal permit or approval required for the Project. The Board may extend such time period, such extension not to be unreasonably denied.

48. The Applicant shall keep the site and the adjoining existing roadway area clean during construction. Upon completion of all work on the Site and prior to As-Built approval, all debris and construction materials shall be removed and disposed of in accordance with state laws and regulations and the Building Inspector and Director of Public Works shall be notified in writing of the final disposition of the materials.

49. Construction equipment shall not be parked or stored within one hundred feet (100') of any drainage channel, drainage inlet, or wetland area. Maintenance of construction equipment involving transfer of fluids and fuels shall be conducted in areas away from drainage channels and inlets and wetland buffer areas. Contractor's on-site personnel shall immediately notify the Town of any hazardous material spill, regardless of size.

50. All earth stockpiles shall be established in locations greater than fifty feet (50') from the wetlands. Earth material stockpiles shall not be allowed immediately adjacent to perimeter siltation barriers or drain inlets. Long term stockpiles over 30 days shall be shaped stabilized and circled by siltation fence and haybales and shall be stabilized by temporary seeding, sheeting or netting.

51. Excavation dewatering shall be in a workmanlike manner and such water shall be free of suspended solids before being discharged into either a wetland or any storm water drainage system. This condition applies to all forms of dewatering including pumping and trenching. No direct

discharge to the wetlands is allowed. Such discharge shall be consistent with the Applicant's NPDES Notice of Intent.

52. The Applicant shall grant the Town the right, but not the obligation, to enter the Locus to repair and maintain water or sewer lines as necessary to ensure the health and safety of the residents of the Project. Nothing herein shall be deemed to abridge the Town's exercise of any public health, emergency services, law enforcement or public safety rights.

54. The Applicant will grant the Town an easement in a form reasonably acceptable to Town Counsel for public access on any portion of the newly constructed sidewalk along Franklin Street that is located within the Locus.

IV. DECISION ON WAIVERS

The Applicant has requested certain waivers from various rules, regulations and bylaws lawfully adopted by the Town's regulatory agencies, including its Legislature. Appendix "C" attached to this Final Comprehensive Permit and incorporated herein contains a list of the waivers granted.

V. RESOLUTION OF RELATED WETLANDS CASE

In connection with the granting of this Final Comprehensive Permit, the current owner of the Locus and the Conservation Commission have signed a Stipulation of Dismissal with prejudice and without costs with respect to the Middlesex Superior Court case entitled Weiss Farm, Inc. v. The Town of Stoneham and the Stoneham Conservation Commission, Docket No. 1581CV05342, which they intend to file upon issuance of this Final Comprehensive Permit.

VI. CONCLUSION

This Final Comprehensive Permit is granted with conditions. This Final Comprehensive Permit must be recorded at the Middlesex County Registry of Deeds to be effective.

The Applicant and Board waive all future rights of appeal and any dispute relative to this Final Comprehensive Permit shall be first submitted to the Board for a determination if relating to matters governed by the Board under by 760 CMR 56.00.

APPENDIX A

THE COMMONS AT WEISS FARM DRAWING LIST

<u>SHEET No.</u>	<u>SHEET TITLE</u>	<u>DATE</u>	<u>PREPARED BY</u>
	Cover	04/18/23	H. W. Moore
<u>Civil Plans</u>			
C-1	Existing Conditions	06/20/14	H. W. Moore
C-2	Site Layout and Materials Plan	04/18/23	H. W. Moore
C-3	Site Grading and Drainage Plan	04/18/23	H. W. Moore
C-4	Site Utility Plan	04/18/23	H. W. Moore
C-5	Site Details Plan	04/18/23	H. W. Moore
C-6	Site Details Plan	04/18/23	H. W. Moore
C-7	Site Details Plan	04/18/23	H. W. Moore
C-8	Site Details Plan	04/18/23	H. W. Moore
C-9	Site Signage Plan	04/18/23	H. W. Moore
C-10	Erosion Control Plan	04/18/23	H. W. Moore
C-11	Signage and Pavement Marking Plan	04/18/23	H. W. Moore
L-1	Landscape Plan	03/04/15	The Cecil Group
L-2	Lighting Photometric Plan	06/20/14	LSI Industries
<u>Architectural Plans</u>			
A1.01	Building A & B 1 st Floor Plan	03/29/23	HDS Architecture
A1.02	Buildings A & B Floors 2-5 Plan	03/29/23	HDS Architecture
A1.05	Building A & B Roof Plan	03/29/23	HDS Architecture
A1.01	Building C 1 st Floor Plan	03/29/23	HDS Architecture
A1.03	Building C Floors 2-4 Plan	03/29/23	HDS Architecture
A1.05	Building C 5 th Floor Plan	03/29/23	HDS Architecture
A1.06	Building C Roof Plan	03/29/23	HDS Architecture
AD1.00	Townhomes Typical Floor Plans	03/29/23	HDS Architecture
A2.01	Buildings A & B Elevations	03/29/23	HDS Architecture
A2.02	Buildings A & B Elevations	03/29/23	HDS Architecture
A2.03	Building C Elevations	03/29/23	HDS Architecture
A2.04	Building C Elevations	03/29/23	HDS Architecture
A2.05	Townhouse Elevations	03/29/23	HDS Architecture
A8	Clubhouse Plan & Elevations	6/25/14	RSSC Architects Inc.

APPENDIX B

Hold Harmless, Indemnification and Bonding Agreement

Weiss Farm Apartments LLC, through the signing of this document by an authorized party or agent, indemnifies, holds harmless and defends the Town of Stoneham, Massachusetts (the "Town") and its agents, servants and employees from all suits and actions, including attorneys' fees and all costs of litigation and judgment of every name and description brought against the Town as a result of loss, damage or injury to person or property caused by any negligent act by the agents, servants or employees of Weiss Farm Apartments LLC committed while working within the layout of Franklin Street or on any Town property during the construction of the proposed 40B project at Weiss Farm. As a condition to such indemnification, the Town shall promptly notify Weiss Farm Apartments LLC and permit Weiss Farm Apartments LLC to assume the defense of any such claim and shall not settle any such claim without the prior written consent of Weiss Farm Apartments LLC, which consent shall not be unreasonably withheld.

In consideration of the Town of Stoneham agreeing to permit work within the layout of the street, Weiss Farm Apartments LLC shall post cash bond or surety bond with the Treasurer-Collector in the amount of \$_____ to cover the projected cost of any improvements (including a contingency) within the layout of any public way or Town property in connection with the proposed 40B project at Weiss Farm. Said bond may be reduced by application to the Building Commissioner with the advice and consent (not to be unreasonably withheld) of the DPW Director, or in the event of any dispute, the Zoning Board of Appeals, based on the state of completion of the work. Said bond shall be released upon the final completion of the work as per the Final Plans.

WEISS FARM APARTMENTS LLC

By: _____

Name:

Title:

Date

APPENDIX C

WAIVERS

WAIVERS FROM ZONING		
LOCAL REGULATION	REQUIREMENT*	AS WAIVED
1. Chapter 15; 4.2.2 – Permitted Use in Residence A	One family dwelling and accessory garage structure	As shown on Plans
2. Chapter 15; 5.2.1 – Table One - Minimum Lot Area per Dwelling	10,000 sf/unit	4,315 sf/u
3. Chapter 15; 5.2.1 – Table One – Maximum Building Height	30 feet	62 feet at larger apartment buildings, 35 feet at townhouse buildings and 30 feet at clubhouse building
4. Chapter 15; 5.3.7.1 – Space Between Buildings	30 feet	22 feet between Building B and Clubhouse
5. Chapter 15; 6.3.3 – Parking Requirement for Multi-Unit Development	2.1/unit	430 surface parking spaces
6. Chapter 15; 6.3.4.2 #10 – Parking Layout, Snow Storage	Allow for storage within parking areas	Storage will be handled onsite, not necessarily in parking areas, but outside of all local and/or state wetland buffer zones
7. Chapter 15; 6.3.5.2 – Parking Screening	4' w x 4' tall screening at all parking areas from adjacent lots	Screening will be provided as shown on Plans
8. Chapter 15; 6.3.5.1, 6.6.2.1, 6.8.7.1 – Parking Lighting	Minimum 1fc over entire lot, no trespass on street or abutting property	As shown on Plans
9. Chapter 15; 6.3.6 – Driveway Access Permit	Permit required	Permit granted
10. Chapter 15; 6.3.7.1 – Loading Bay	One required per 25,000 sf of building	None provided
11. Chapter 15; 6.7, Table 2 – Number of Signs, Size of Signs	One sign per lot	As shown on Plans
12. Chapter 15; Sec. 6.8.10 – Alteration of Land	Suitably landscape areas of land alteration	As shown on plans
13. Chapter 15; 6.10 – Land Fill Permit	Permit required	Permit granted

*To the extent that the Plans or approved Final Plans show work requiring additional waivers not expressly set forth above, these waivers are also granted.

WAIVERS FROM LOCAL BY LAWS		
LOCAL REGULATION	REQUIREMENT*	AS WAIVED
14. Chapter 6; Sec. 6.3-3 – Recycling	Recycling to be separated between “Paper” and “Co-Mingled” items	All recycling materials will be handled through “single stream” recycling where all recyclables are placed into a single container and sorted offsite
15. Chapter 11, Wetland Protection By-Law	No disturbance within 25 feet of a wetland resource area	Restoration of degraded areas within 25 feet of the wetlands, and pedestrian path may cross through the 25 foot strip.
16. Chapter 13-1 – Streets and Sidewalks, Excavation	Permit required	Permit granted
17. Chapter 13-15 – Streets and Sidewalks, Street Opening	Permit required	Permit granted
18. Chapter 13A – Earth Removal	Permit required	Permit granted
19. Chapter 18; Sec 18-33(f), Comp. Permit Submittal Requirements	Utility Plan including supporting information that utility connections meet federal, state and local regulations	Utility plan provided shows nature and location of all utilities
20. Chapter 18; Sec 18-33(k), Comp. Permit Submittal Requirements	Pro Forma	Not provided
21. Chapter 18; Sec 18-33(n), Comp. Permit Submittal Requirements	Environmental Impact Analysis	Not provided
22. Chapter 18; Sec 18-33(p), Comp. Permit Submittal Requirements	Statement of Impact on Municipal Facilities and Services	Not provided
23. Chapter 20; Secs. 20-28 & 32 – Location and Siting of Dumpster	Location to be submitted for approval	As shown on Plans
24. Chapter 20; Secs 20-34 & 35, Board of Health, Dumpster Permit	Permit required	Permit granted

*To the extent that the Plans or approved Final Plans show work requiring additional waivers not expressly set forth above, these waivers are also granted.